

WOODMEN HILLS

A RECREATIONAL LIFESTYLE COMMUNITY



RESOLUTION NUMBER 11-06
OF THE
BOARD OF DIRECTORS
OF
WOODMEN HILLS METROPOLITAN DISTRICT

A RESOLUTION FOR THE DEFENSE AND INDEMNIFICATION
OF DIRECTORS AND EMPLOYEES OF THE DISTRICT

WHEREAS, directors and employees of Woodmen Hills Metropolitan District ("District") may be subject to claims arising from acts or omissions occurring during the performance of their governmental duties; and

WHEREAS, the District desires to encourage persons to serve on its Board of Directors and accept employment with the District, by defending and indemnifying such persons against liability for acts or omissions occurring during the performance of their governmental duties; and

WHEREAS, it is in the best interest of the District and its inhabitants to defend and indemnify its directors and employees against liability for acts and omissions which occur within their scope of employment and for which such defense and indemnification is not otherwise provided by Colorado law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DISTRICT THAT:

1. Definitions. For purposes of this resolution, the terms below shall be defined as follows:

a. Director: includes current and former directors of the District, from the date of organization, and directors who are appointed or elected to the board hereafter, who are sued for acts or omissions occurring during their term as a director of the District.

b. Employee: includes current and former employees of the District, from the date of organization, and employees employed in the future, who are sued for acts or omissions occurring during their employment with the District. The term "Employee" specifically excludes any person or organization contracting to perform services for the District as an independent contractor.

c. Scope of Employment: an act or omission of a director or employee of the District is within the "scope of employment" if it reasonably relates to the business or affairs of the District and the director or employee acted in good faith and in a manner a reasonable person would have believed to be in the best interests of the District. In addition to other acts or

omissions which are not within the Scope of Employment, all acts or omissions which are a violation of law shall be deemed not to be within the Scope of Employment.

2. Tort Actions Governed by the Colorado Governmental Immunity Act.

a. The District shall pay, in accordance with Section 24-10-110, et. seq. C.R.S., as amended from time to time (the "Governmental Immunity Act") the costs of defense of and settlements and judgments against a director or employee of the District, including reasonable attorney fees, where the action lies or could lie in tort, including any such action brought pursuant to federal law in any court of this State. As a prerequisite to such payment, the director or employee must furnish the District with an affidavit stating that: (1) the action against him/her is not purely personal, and (2) to his/her reasonable belief, the act or omission upon which the claim is based occurred within the Scope of Employment. The director or employee shall also be required to comply with all relevant provisions of the Governmental Immunity Act, including but not limited to, provision of timely notice to the District of claims in accordance with such act. However, the District shall not pay such judgments and shall seek reimbursement from the director or employee for the reasonable costs of his/her defense, including reasonable attorney fees, where it is determined by a court of competent jurisdiction that the injuries did not arise out of an act or omission of the director or employee occurring during his/her term of employment with the District and within the Scope of Employment; or where the act or omission is determined by a Court to be willful and wanton.

b. The District does not hereby waive the notice requirements of its directors and employees as set forth in Section 24-10-110 (2), C.R.S.

3. Other Actions Except Criminal. The District hereby agrees to pay the costs of defense and settlements and judgments against its directors and employees, including reasonable attorney fees, for all other actions, including but not limited to, actions which lies or could lie in contract, or arise under state or federal laws and are not governed by Section 24-10-110, C.R.S., except for criminal actions. As a prerequisite to such payment, the director or employee must furnish the District with an affidavit stating that: (1) the action against him/her is not purely personal, and (2) to his/her reasonable belief, the act or omission upon which the claim is based occurred within the Scope of Employment. The District shall not pay such judgments and shall be reimbursed by the director or employee for the reasonable costs of his/her defense, including reasonable attorney fees, where it is determined by a court of competent jurisdiction that the injuries did not arise out of an act or omission of the director or employee occurring during his/her term of employment with the District and within the Scope of Employment.

4. Criminal Actions. The District hereby agrees to pay the costs of defense, including reasonable attorney fees, and any fines or penalties assessed, where a criminal action is brought against its directors or employees for acts or omissions occurring during their term of employment with the District and within the Scope of Employment. As a prerequisite to such payment, the director or employee must furnish the District with an affidavit stating that: (1) the action against him/her is not purely personal, (2) to his/her reasonable belief, the act or omission upon which the claim is based occurred within the Scope of Employment, and (3) he/she had no reasonable cause to believe his/her conduct was unlawful. However, the District shall not pay such fines or penalties and shall be reimbursed by the director or employee for the reasonable costs of his/her defense, including reasonable attorney fees, where it is determined by a court of competent jurisdiction that:

a. The injuries did not arise out of an act or omission of the director or employee occurring during his/her term or employment with the District and within the Scope of Employment.

b. The employee or director had reasonable cause to believe his/her conduct was unlawful.

5. Miscellaneous Provisions. The following provisions shall apply to any of the actions discussed in Sections 2, 3 and 4 above:

a. Consent to Compromise or Settlement. The District shall pay no judgment or settlement of claims against its director or employee where the latter has compromised or settled the claim without the District's written consent.

b. Legal Representation of the Director or Employee. The District's legal counsel shall serve as counsel to the director or employee, unless it appears to such counsel that the interests of the District and the director or employee may be adverse. In the latter event, the director or employee may select separate counsel to be approved in writing by the District. The director or employee shall cooperate with the District and its legal counsel in his/her defense.

c. Director's or Employee's Costs. The District shall not pay to its directors or employees a fee or wage related to time spent in giving depositions, testifying or otherwise cooperating with their defense; however, employees will be compensated at their regular salary for any time spent in depositions or testifying on behalf of the District.

6. No Waiver of Sovereign Immunity. By the adoption of this Resolution, the District, its Directors and employees do not waive the defense of sovereign immunity as to any action.

7. No Waiver of Insurance Coverage. The approval and adoption of this Resolution shall not constitute a waiver by the District of insurance coverage with respect to any liability covered by this Resolution. The Resolution shall render the District secondarily liable in the event the District's insurance does cover such liability and the conditions of this Resolution are met.

8. Liberal Construction. The purpose of this Resolution is to protect directors and employees of the District against personal liability for their actions taken on behalf of the District and reasonably believed to be in the best interest of the District. Therefore, it is the intent of the District that this Resolution be liberally construed in favor of protection of such directors and employees.

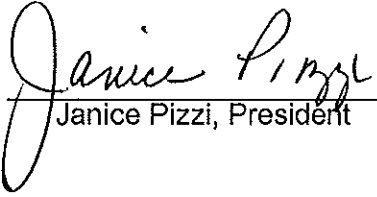
9. Severability. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstance, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

APPROVED AND ADOPTED THIS 28TH DAY OF APRIL, 2011

(SEAL)

DISTRICT

WOODMEN HILLS METROPOLITAN

By: 
Janice Pizzi, President

ATTEST:
By: 
Al Kreps, Secretary